

Sept. 17, 2019

Elon University files Request for Review with the National Labor Relations Board

On Sept. 17, 2019, Elon University asked the National Labor Relations Board (NLRB) to review the NLRB Acting Regional Director's (ARD) decision to certify the Service Employees International Union, Workers United Southern Region (SEIU) as the exclusive collective bargaining representative for Elon's part-time, limited term and visiting faculty members.

Elon is asking the NLRB to overrule the ARD's decision and dismiss the SEIU's petition based on a number of considerations:

- The NLRB has long held that managerial employees cannot be represented by labor unions. The ARD incorrectly analyzed the managerial employee question at Elon, finding that Elon's part-time, limited term and visiting faculty were not managerial employees simply because they did not make up a majority in Elon's shared governance committees. In March of 2019, the U.S. Court of Appeals for the District of Columbia ***rejected this analysis*** when it considered a similar SEIU petition to represent part-time and full-time non-tenure track faculty at the University of Southern California (USC). The SEIU withdrew its petition to represent the USC faculty shortly after the D.C. court issued its decision.

Elon's part-time, limited term and visiting faculty members have a voice and a vote through their elected representative on the university's Academic Council. This role in decision-making under Elon's system of shared governance makes them managerial employees who are ineligible for union representation under the Supreme Court's bedrock decision in *Yeshiva University*, subsequent NLRB precedent, and the D.C. court's *USC* decision in March of 2019.

- The bargaining unit is inappropriate because it mixes part-time and full-time faculty (limited term and visiting faculty) who have many different and potentially competing interests, while excluding other faculty with similar interests. The unit also inappropriately combines faculty from the four undergraduate schools into one unit, which is at odds with NLRB precedent and does not recognize the unique accreditation and curriculum standards of each school.
- The formula used to determine eligibility to vote in the election was improper because it included voters who do not have a continuing interest in Elon employment. For example, faculty members who taught only in the spring of 2018 and have not worked at Elon since were allowed to vote.
- The SEIU conduct during the election was coercive and interfered with the election process.